IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 202/2004

MEENA COLONY GRIH NIRMAN SAHKARI SAMITI LIMITED, JAIPUR
Vs.
STATE OF RAJASTHAN & ORS.

DATE: 11.12.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Alok Sharma for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.
Mr. J.K. Singhi for the respondents.

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The petitioner Society Meena Colony Grih Nirman Sahkari Samiti Ltd. has preferred this writ petition through its Vice President Daya Gupta W/o Shri Satish Chand who has been authorised to file the writ petition by way of Resolution No. 2 dated 22.05.2002.

The petitioner Society has filed the instant writ petition praying for writ of mandamus directing the respondent Rajasthan Housing Board to withdraw from their illegal possession and encroachment over the part of Khasra No. 63 (old Khasra No. 53) of Village Jhalana Chod, Tehsil Sanganer, District Jaipur falling Raghu Vihar-M Block Scheme of the petitioner society or in the alternate to issue writ of mandamus or a writ, order or direction directing the respondent Rajasthan

Housing Board to allot to the members of the society set out in the schedule-I the plots in other schemes of the Rajasthan Housing Board.

Learned counsel for the petitioner submits that it is an admitted fact that Khasra No. 15 has been acquired by the Rajasthan Housing Board not Khasra No. 63, therefore, this Court should direct them to vacate the possession over Khasra No. 63 and handover the possession of the same to the petitioner Society so that the petitioner Society may allot plots to its members.

Per contra, learned counsel appearing for the respondents submits that this writ petition has been filed after a delay of 20 years as the Award in favour of the Rajasthan Housing Board was passed way back in the year 1982 and possession was also taken by the Housing Board, whereas this writ petition has been filed in the year 2004, thus, there is delay of more than 20 years.

The petitioner has strongly relied upon Annexure-8 “Mauka Fard Report' prepared by the Revenue Inspector in the presence of S.I., Police Station Manak Chowk, Jaipur, which is prepared with regard to Khasra No. 63 (Old Khasra No.53) and this report shows that the respondent Housing Board is having possession over

the land belonging to the petitioner bearing Khasra No. 63.

The submissions made on behalf of the petitioner has strongly been controverted by the learned counsel appearing for the respondents submitting that the report which has been prepared, is not prepared in the presence of the Housing Board. It is further contended that writ jurisdiction is not proper jurisdiction to decide such dispute and the petitioner has got alternative efficacious remedy to redress its grievance, but in any case, while exercising extraordinary power under Article 226 of the Constitution of India, such disputed question of facts cannot be decided as the land which was in possession of the Housing Board, already an Award to this effect has been passed in the year 1982 and possession has been handed over to the Housing Board way back in 1982 and since the petitioner has raised several disputed question of facts, therefore, this forum is not a proper forum to resolve the disputed question of facts.

Having considered the rival submissions of the respective parties and as per the settled preposition of law, such order or direction, as sought by the petitioner, cannot be issued by this Court while exercising extraordinary power under Article 226 of the

Constitution of India and the petitioner has got alternative efficacious remedy to redress its grievance as several disputed question of facts are involved in this writ petition.

Thus, in view of the settled preposition of law, this Court do not want to interfere in such matters.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed with no order as to costs.

(K.S. RATHORE),J.

/KKC/